

CONGRESSIONAL OVERSIGHT
A JOINT COMMITTEE ON INTELLIGENCE

I. Premise

A. Objective

1. Reverse trend of proliferation of sensitive operational information.
2. Assure public of effective oversight.

B. Jurisdictional Form

1. Parallel Executive Branch structure
2. Intelligence community via DCI
3. CIA

II. Congressional Oversight - DCI/CIA

A. General

1. Statutory Basis
 - a. National Security Act of 1947
 - b. CIA Act of 1949
 - c. Security for intelligence activities
2. Oversight Responsibilities
 - a. General legislation
 - b. Appropriations
 - c. Economy and efficiency
3. Committees
 - a. Legislative and General Oversight
 1. Armed Services
 2. Appropriations
 3. Historical Note - Government Operations

b. Others

1. Government Operations Committees, particularly Legislative and National Security Subcommittees.
2. Senate Foreign Relations
 - a. Oversight of all activities abroad via Ambassador/State.
 - b. Covert actions reporting.
3. International Relations Committee, Subcommittee on Oversight.
 - a. Special oversight of intelligence activities relating to foreign policy.
 - b. Covert action reporting.

c. Summary.

1. Access to sensitive intelligence information expanded dramatically, 93rd to 94th Congresses.
2. With Select Committees, 10 committees are laying claim to oversight of all or part of CIA activities.
3. Members have access to all committee records under House Rule XI 2(e)(2).

B. Chronological Developments

1. Benign Period - Early 1950's.
2. Late 1950's.
 - a. Sen. Mansfield's initiative for Joint Committee
 - b. Sputnik Era - interest - Soviet threat
3. Early 1960's.
 - a. Increased substantive intelligence interest.
 1. "Missile Gap"
 2. Cuban Missile Crisis
 - b. Continued Pressure to Increase Oversight
 1. U-2 flight of Gary Powers
 2. Bay of Pigs
 3. Sen. Russell consolidates CIA Armed Services and Appropriations hearings.

4. Late 1960's.

- a. Joint Committee bill defeated.
- b. Funding of National Student Association exposure.
- c. ABM debate.
- d. Bill to circumscribe executive action through CIA.

5. 1970's.

- a. Oversight committees fading in strength.
- b. House oversight reinvigorated by appointment of Lucien Nedzi as Chairman of Intelligence Subcommittee.
- c. Oversight committees keeping more detailed records.
- d. Increased use of substantive intelligence product within Congress.

C. Current Congressional Procedures.

1. Operational/Agency Matters.

- a. Limit to Armed Services and Appropriations subcommittees.
- b. Covert action (P. L. 93-559) report to foreign relations committees.

2. Substantive Intelligence.

- a. Any committee within their jurisdiction.
- b. Sanitize transcripts.

3. Legislation.

- a. Armed Services for amendments to 1947 and 1949 Acts.
- b. General Legislation impinging upon DCI/CIA authorities/responsibilities requires cooperation of other committees.

D. Options for Increased Security.
(Sine qua non - protect supporting sources and methods)

1. Committees not maintain records of sensitive information:
 - a. Criticism of committees.
 - b. Help committees distance selves from responsibilities.
2. Change House Rules to Limit Access to Sensitive Operational Information.
3. Continue present course and assume sensitive material will be handled with wisdom and restraint.
4. Joint Committee on Intelligence.
 - a. Rules to deny access to sensitive information beyond committee membership.
 - b. Incorporate into Joint Committee resolution Intelligence Sources and Methods legislation.

III. Pros and Cons of a Joint Committee on Intelligence.

A. Pros.

1. Reverse trend towards proliferation.
2. Consolidate into one committee all oversight except for Appropriations
 - a. Improve the exercise of legislative leadership
 - b. Improve credibility of oversight
 - c. Source of credible spokesmen to defend Agency.
 - d. Opportunity for frequent, in depth briefing.
 - e. Elimination of redundant briefing
 - f. Full-time professional staff to assist both committees and intelligence community.
3. Opportunity to limit access to sensitive intelligence information to membership of committee by rule change.
4. Opportunity to enact as part of the resolution more effective deterrents against the disclosure of sensitive intelligence sources and methods information.

5. Provide a strong base within Congress to withstand accommodations on sensitive matters
6. Satisfy a number of present critics who believe oversight is ineffectual and silence their criticism at least on this issue.
7. Those who have been in the forefront of defending the Agency are nearing the end of their service and replacements in the present structure of oversight are unlikely to wield equivalent power.

B. Cons.

1. May not necessarily resolve jurisdictional battles, special overview authority.
2. Present committee leadership could react negatively to the proposal.
3. Improved chances for encroachment upon executive responsibilities, intrusion into policy areas and doctrine of separation of powers.
4. Create Board of Directors which may curtail executive initiatives and creativeness.
5. Full-time professional staff with possible attendant problems of interference with management.
6. Some sentiment within Congress against joint Committees in principle as violating the bicameral legislature under the Constitution.

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WORKING PAPER

ON

A JOINT COMMITTEE ON INTELLIGENCE

WORKING PAPER

CONGRESSIONAL OVERSIGHT
A JOINT COMMITTEE ON INTELLIGENCE

(Premise. The two-fold objective is to end proliferation of sensitive information and to assure the public that oversight is effective. This may be accomplished by vesting oversight exclusively in one committee. However, exclusive oversight of an intelligence community composed disparately of all or parts of eight different departments and agencies is not susceptible to efficient and effective accomplishment without a corresponding reorganization in the Executive Branch--an unlikely and undesirable development. Therefore, any exclusive legislative charter should be compatible with the existing structure in the Executive Branch and would involve the intelligence community, through the Director of Central Intelligence, and the Central Intelligence Agency. This paper is grounded on this premise.)

CONGRESSIONAL OVERSIGHT - DCI - CIA

A. GENERAL

1. Statutory Basis

The Office of the DCI, the CIA and its functions were established in the National Security Act of 1947. Another important aspect of that legislation is the statutory direction to the DCI to protect intelligence sources and methods from unauthorized disclosure. The Central Intelligence Agency Act of 1949 provided for the general administration of the Agency.

The premise of this Act was to provide enabling authority in a secure framework. It permits CIA appropriations to be handled securely and denies foreign access, through public disclosure, to the organization, its functions, and the names of its personnel.

2. Oversight Responsibilities.

(a) General legislative: review and study on a continuing basis, the application, administration, execution and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee, including the desirability of enacting new or additional legislation.

(b) Appropriations: study and examine the organization and operation of departments or agencies to assist in determination of other matters within its jurisdiction.

(c) Government Operations: study the operations of Government administration at all levels with a view to determining its economy and efficiency.

3. Committees Involved. The Armed Services Committees (on the basis of jurisdiction over the legislation) and the Appropriations Committees (to approve funds) exercise general oversight.

(a) Historical Notes - House.

(1) The Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) considered and reported

the National Security Act of 1947 but the House Armed Services Committee gained permanent jurisdiction with the implementation of the Legislative Reorganization Act of 1946.

(2) Senate. The corresponding Committee on Expenditures challenge to the referral of the National Security Act of 1947 to the Armed Services Committee was defeated when the Senate upheld the ruling of the President pro tem.

(b) Government Operations Committees, particularly on the House side, have from time to time insisted upon a right of congressional oversight of the economy and efficiency with which the Agency conducts its activities. Up to now the issue has not been joined, essentially as a result of voluntary cooperation with various investigations or understandings reached with the oversight committees. However, the establishment in the 94th Congress of a subcommittee on Legislation and National Security, headed by Chairman Jack Brooks (D., Tex.) who also is Chairman of the full committee is believed to be a step towards exertion of partial jurisdiction over intelligence activities.

(c) Senate Foreign Relations Committee, over recent years has pressed to extend its jurisdiction over intelligence activities, including through efforts to establish that those entities within their oversight (i. e., State and ambassadors) have overall authority abroad and thus over CIA, and to include broad limitations on funding of programs principally administered by CIA.

(d) House International Relations Committee, as a result of House Rule changes during the 93rd Congress, has established a Subcommittee on Oversight to exercise special oversight of "intelligence activities relating to foreign policy." The legislative history of this special oversight argues against legislative oversight, but one bill has already been jointly referred to the committee.

(e) Covert Action - New Section 662 of the Foreign Assistance Act of 1961, as amended by P. L. 93-559, Section 32, specifies that the Committee on Foreign Relations and Committee on Foreign Affairs (now International Relations) in addition to other "appropriate committees of the Congress" receive reports on the description and scope of each covert action as a pre-requisite for the expenditure of funds therefor, and such reports have been and will be made. (The reporting must be preceded by a Presidential determination that the operations are important to national security.)

Summary.

The changes already effected for the 94th Congress have expanded the actual and theoretical access to sensitive Agency information dramatically. In addition to the above eight committees which have a basis for exercising some oversight, a number of additional committees can enact general legislation which impinges upon the specific statutory authority and responsibility of the Central Intelligence Agency and the Director of Central Intelligence. As contrasted with the 93rd Congress, the 94th Congress has doubled from 2 to 4 the committees with oversight responsibilities and from 12 to 38 the members having access to sensitive information, not counting the House Select Committee on Intelligence. Finally, in the House, as a result of House Rule XI 2(c)(2), every member of the House is entitled to access to all committee records.

B. CHRONOLOGICAL DEVELOPMENTS

1. 1947 through early 1950's - Oversight was benign.

(a) Controlled by strongly entrenched congressional leadership and senior chairmen.

(b) Cold war psychology---rank and file not predisposed to interference.

(c) On the appropriation side, the basic concern was--do you have enough money?

2. Late 1950's

(a) Record of infrequent briefings of oversight committees leads to Senator Mansfield's initiative for Joint Committee (defeated in 1956 by vote of 59 to 27, with 12 original sponsors opposing the resolution).

(b) Sputnik era triggered wider congressional interest in Agency information on the Soviet threat. Agency initiated program of debriefing members of Congress who had travelled abroad, inviting them to visit Agency facilities and on occasion field installations.

3. Early 1960's

(a) The Agency furnished intelligence briefings to a number of committees including the Joint Committee on Atomic Energy on the Soviet nuclear energy program, and general intelligence briefings to House Foreign Affairs and the Senate Foreign Relations Committee, Soviet space program briefings to the House Science and Astronautics Committee and Senate Aeronautical and Space Sciences Committee, and Soviet military posture briefings to the full Armed Services Committees and the Defense Subcommittee of House Appropriations.

(b) Pressure continued to grow for a Joint Intelligence Committee which spurred the CIA Subcommittee of House Armed Services to examine Agency activities more intensively.

(c) Chairman Vinson appointed Representative Paul J. Kilday as Chairman of the CIA Subcommittee of House Armed Services with the mandate to give CIA more attention.

(d) The "Soviet Missile Gap" argument in the 1960 Presidential election spurred further interest in the Agency's intelligence product.

(e) The U-2 flight of Gary Powers over the Soviet Union and the Bay of Pigs invasion heightened congressional debate and the Cuban missile crisis of 1962 refocused attention on the Agency's capabilities.

(f) Reflecting Senator Russell's growing responsibilities for appropriations matters, sessions of the CIA Subcommittee of Senate Armed Services and Senate Appropriations were held in joint session. Even so by 1965 Agency briefings of these Subcommittees rose to 34 as contrasted with 9 the previous year.

4. Late 1960's

(a) In 1966, the Foreign Relations Committee reported a resolution to establish a Joint Committee on Intelligence which was defeated by 61-29 on jurisdictional grounds, with Senator Russell leading the opposition.

(b) In 1967 the Agency undertook a programmed effort to contact and brief all new members of Congress on the Agency.

(c) 1967 was also the year of exposure of Agency funding of the National Student Association.

(d) In 1969 the Agency's intelligence product came to the front again on the ABM system leading to a closed session of the Senate to discuss the classified aspects of the subject including data provided by the Agency.

(e) Increasing numbers of legislative initiatives are being proposed in an effort to circumscribe executive action through CIA, principally in Southeast Asia.

5. 1970's

(a) The congressional structure which shielded the Agency from intrusion or attack by the rank and file membership for a quarter of a century is in a state of flux. The Russells, Hayden and the Vinsons and Rivers are gone. McClellan is 79, Mahon is 74, and Stennis is 74. Many down the seniority lists have become suspicious or jealous over the secretive manner in which the oversight responsibilities have been exercised and their ranks have been greatly reinforced as a result of newly elected younger members. Many feel Agency information and

Agency activities should be more broadly accessible to the Legislative Branch.

(b) In 1971, as a result of the limitation by the Democratic Caucus on subcommittee chairmanships Representative Lucien N. Nedzi (D., Mich.) was appointed Chairman of a rejuvenated Intelligence Subcommittee of House Armed Services Committee. Nedzi has proved to be an invaluable ally in dealing with problems in the House because of his diligence, thoroughness, objectivity, and skepticism.

(c) In an analogous reaction to the changed political atmosphere in the Senate, both Chairmen Stennis and McClellan have changed earlier practices. Thus both now regularly take transcripts. As necessary, senators are being invited to attend and participate in a Subcommittee session. Senator McClellan has offered any senator the specifics of CIA's budget on a classified basis.

(d) Many members while sharply critical of foreign and defense policy appear to have a high regard for the Agency's intelligence product, fearful only that the Agency's capabilities in the covert action field may be misused by an Administration. They are anxious to have a closer relationship with the Agency and thus more influence on its activities. Others are highly

anxious to avoid battle on issues such as the

Agency's covert action authorities.

C. CURRENT CONGRESSIONAL PROCEDURES

1. Operational/Agency Matters - Under existing guidelines so far supported by the chairmen of the oversight committees, Agency operational activities are reported solely to the four oversight committees, (ongoing covert actions pursuant to P. L. 93-559 must also be reported to the foreign relations committees). No matters are held secret from the oversight committees and there is a responsibility to volunteer to them matters of possible interest. Security precautions in formal sessions with these committees include:

(a) Only selected staff members of the subcommittee (no personal staff of members) are permitted to attend.

(b) Each hearing is preceded by a technical sweep for audio-surveillance devices and technical monitoring is maintained throughout the briefing.

(c) When transcripts are taken, only a reporter with Top Secret clearance is used and the Agency maintains control over the shorthand notes. The transcripts are placed under controls agreed to by the Committees and the Agency.

(d) Except for the incident involving Mr. Harrington, under House Rule XI, and the revelation on 17 April by a new member of the expanded oversight committee of House Appropriations, the membership of the Agency's four oversight committees have had an outstanding record over the past quarter of a century in protecting sensitive Agency information.

2. Substantive Intelligence.

(a) Where appropriate, although infrequently, CIA appears in open session or releases testimony given in executive session when it is neither classified nor revealing of intelligence sources and methods.

(b) Substantive intelligence data and assessments are provided to a variety of committees. The most sensitive sources may be used as the basis for such testimony but neither they nor Agency operations are revealed or discussed.

3. Legislation.

If general proposed legislation impinges upon the Agency or the Director of Central Intelligence, views are transmitted to the committee having jurisdiction and from time to time as necessary, the Director or other Agency witness appear in either executive or open session to testify.

D. OPTIONS FOR INCREASED SECURITY

Clearly the sine qua non of clandestine activities is to protect the supporting sources and methods. The spinoff from revelations creates an atmosphere where liaison services and other sources are wary of

continued cooperation and feeds the appetite of those such as former disaffected employees Agee, if not worse, and Marchetti to tell their tales.

(1) In light of the House rules, the most obvious protective device is that Subcommittees not maintain records on sensitive information. The problem with this solution is that there is then no evidence of information provided by the Agency, which makes it possible for the Committees to distance themselves from responsibility in the event serious issues arise in the future about the extent to which the Agency has conformed to the law and kept the oversight committees informed.

(2) The overall arrangement could be made for the Committees to keep no transcripts or records but CIA to keep them in a segregated collection. As directed by the four Chairmen, they could be made available under escort for examination but not copying. However practical, this might pose political and constitutional problems.

(3) The House rules could be changed to limit access to sensitive operational information to the members of specified subcommittees and perhaps certain other designated

members in leadership positions. This would not likely be accepted by the full House.

(4) Committee access to certain operational information having a substantial impact on the deliberations of the House Foreign Affairs Committee and the Senate Foreign Relations Committee is currently being expanded to those Committees, or selected subcommittees thereof. Such information may be handled with wisdom and restraint but the increase in the chances of exposure is also clear.

(5) A Joint Committee on Intelligence might be established with members from Appropriations, Armed Services, Foreign Affairs and Government Operations, with a separate staff. The resolution establishing it could clearly state that the committee will have access to all information and provide it with the authority and responsibility to refuse access to information about intelligence sources and methods.

E. PROS AND CONS OF A JOINT COMMITTEE ON INTELLIGENCE

1. Pros.

(a) Reverse trend towards proliferation of access

to sensitive information and consolidate into one committee all oversight except for Appropriations.

(b) Mechanism for improving the exercise of legislative leadership on oversight and the credibility of that oversight.

(c) Credible spokesmen to defend Agency on the basis of a thorough record made before the committee.

(d) Opportunity for frequent and regular across-the-board briefings and elimination of redundant briefings to other committees.

(e) Opportunity to establish as part of the resolution rules strictly limiting access to sensitive intelligence information (including overriding of Rule XI of the House).

(f) Opportunity to enact as part of the resolution more effective deterrents against the disclosure of sensitive intelligence sources and methods information.

(g) Provide a strong base within Congress to withstand accommodations on sensitive matters not supported by their merits

(h) Full-time professional staff to assist both the committee and the intelligence community.

(i) Satisfy a number of present critics who believe oversight is ineffectual and silence their criticism at least on this issue.

(j) Those who have been in the forefront of defending the Agency are nearing the end of their service and replacements in the present structure of oversight are unlikely to wield equivalent power.

2. Cons.

(a) The establishment of a joint committee may not resolve jurisdictional battles as those now exercising jurisdiction may be unwilling to relinquish their claims especially the Armed Services Committees which can argue their special interest in special overview of intelligence as it relates to military or defense measures.

(b) Enlarges the opportunity for a committee to encroach on executive responsibilities on the basis of comprehensive access to information while matters are pending. Intrusion into basic policy areas which could eventually involve the doctrine of the separation of powers and undermine the President's role in the conduct of foreign affairs.

(c) Create a board of directors which under a requirement for full and current information could curtail executive initiatives.

(d) Bring into the picture active full-time professional staff with probable attendant problems of interference with Agency management.

(e) Sentiment against joint committee in the Congress as a weakening of the bicameral legislature established by the Constitution.

94th CONGRESS
1st Session

S.

IN THE SENATE OF THE UNITED STATES

Mr. _____ introduced the following bill; which was read twice
and referred to the Committee on Rules

BILL

To establish a Joint Committee on Central Intelligence, to
amend the National Security Act of 1947, and for other purposes.

1 Be it enacted by the Senate and the House of Representatives
2 of the United States of America in Congress assembled, that
3 ESTABLISHMENT OF JOINT COMMITTEE ON CENTRAL
4 INTELLIGENCE

5 SEC. 2. (a) There is hereby established a Joint Committee
6 on Central Intelligence (hereinafter referred to as the
7 "joint committee") which shall be composed of twelve members
8 appointed as follows:

1 (1) two members of the Committee on Armed

2 Services of the Senate;

3 (2) two members of the Committee on Foreign

4 Relations of the Senate;

5 (3) two members of the Committee on Government

6 Operations of the Senate;

7 (4) two members of the Committee on Armed

8 Services of the House of Representatives;

9 (5) two members of the Committee on Foreign

10 Affairs of the House of Representatives; and

11 (6) two members of the Committee on Government

12 Operations of the House of Representatives.

13 (b) The joint committee shall select a chairman and a vice

14 chairman from among its members at the beginning of each Congress.

15 The vice chairman shall act in the place instead of the chairman in the

16 absence of the chairman. The chairmanship shall alternate with each

17 Congress between the Senate and the House of Representatives, and the

18 chairman shall be selected by the joint committee members of the house

19 entitled to the chairmanship. The vice chairman shall be chosen from

20 the house other than that of the chairman by members of the joint

21 committee from that house.

22 (c) Vacancies in the membership of the joint committee shall

1 not effect the power of the remaining members to execute the
2 functions of the joint committee and shall be filled in the same
3 manner as in the case of an original selection.

4 (d) A majority of the members of the joint committee shall
5 constitute a quorum for the transaction of business, except that
6 the joint committee may fix a lesser number as a quorum for the
7 purpose of taking testimony.

8 DUTIES OF THE JOINT COMMITTEE

9 SEC. 3. (a) The joint committee shall make continuing studies of
10 the activities and operations of the Director of Central Intelligence and
11 the Central Intelligence Agency. The Director of Central Intelligence sha
12 keep the joint committee fully and currently informed with respect to all
13 his activities and those of the Central Intelligence Agency.

14 (b) All bills, resolutions, and other matters in the Senate or House
15 of Representatives relating to the Director of Central Intelligence and the
16 Central Intelligence Agency or to the foreign intelligence activities of the
17 United States Government shall be referred to the joint committee, and
18 except for the Appropriations Committees, the joint committee shall have
19 exclusive jurisdiction and access to information on the operations
20 of the Central Intelligence Agency, its programs and functions.

21 (c) Information obtained or furnished pursuant to this section
22 shall be subject to specific rules and instructions regarding

1 protection and further dissemination as established by the joint
2 committee. These rules and instructions shall take precedence² over
3 any other rules or instructions of the Senate or the House of
4 Representatives, with which they may conflict.

5 (d) The chairman and vice chairman of the joint committee or
6 their designees shall from time to time report to their respective
7 houses, by bill or otherwise, their recommendations with respect
8 to matters within the jurisdiction of the joint committee.

9 POWERS OF THE JOINT COMMITTEE

10 SEC. 4. (a) The joint committee, or any subcommittee
11 thereof, is authorized, in its discretion: to make expenditures; to
12 employ personnel; to hold hearings; to sit and act at any time or place;
13 to subpoena witnesses and documents; to take depositions and other
14 testimony; to use, on a reimbursable basis, the facilities and services
15 of personnel of the Central Intelligence Agency, with the prior consent
16 of said Agency; to procure printing and binding; to procure the
17 temporary or intermittent services of individual or organizational
18 consultants; and to provide for the training of its professional staff.

19 (b) Subpoenas may be issued over the signature of the chairman

1 of the joint committee or by any member designated by him or
2 the joint committee, and may be served by such person as may be
3 designated by such chairman or member. The chairman of the
4 joint committee or any member thereof may administer oaths to
5 witnesses. The provisions of sections 102 to 104 of the Revised
6 Statutes (2 U. S. C. 192-194) shall apply in the case of any failure
7 of any witness to comply with a subpoena to testify when summoned
8 under authority of this subsection.

9 CLASSIFICATION OF INFORMATION

10 SEC. 5. The joint committee may classify information
11 originating within the committee in accordance with standards
12 used generally by the executive branch of the Federal Government
13 for classifying defense information or other information relating to
14 the national security of the United States, including information
15 relating to intelligence sources and methods.

16 RECORDS OF THE JOINT COMMITTEE

17 SEC. 6. The joint committee shall keep a complete record
18 of all information it receives pursuant to section 3. All committee
19 records, data, charts and files shall be the property of the joint
20 committee and shall be kept in the office of the joint committee,
21 or such other places as the joint committee may direct,

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1 under such security safeguards as the joint committee shall

2 determine to be in the interest of national security but not less than
3 the standards prescribed for the Executive branch.

4 EXPENSES OF JOINT COMMITTEE

5 SEC. 7. The expenses of the joint committee shall be paid
6 from the contingent fund of the Senate from funds appropriated for
7 the joint committee, upon vouchers signed by the chairman of the
8 joint committee or by any member of the joint committee
9 authorized by the chairman.

10 PROTECTION OF INTELLIGENCE SOURCES AND METHODS

11 SEC. 8. Section 102 of the National Security Act of 1947, as
12 amended, (50 U.S.C.A. 403) is further amended by adding the
13 following new subsection (g):

14 (g) In order further to implement the proviso of
15 section 102(d)(3) of this Act that the Director of Central
16 Intelligence shall be responsible for protecting intelligence
17 sources and methods from unauthorized disclosure--

18 (1) Whoever, being or having been in duly
19 authorized possession or control of information
20 relating to intelligence sources and methods, or
21 whoever, being or having been an officer or employee
22 of the United States, or member of the Armed Services

1 of the United States, or a contractor of the United States
2 Government, or an employee of a contractor of the United
3 States Government, and in the course of such relationship
4 becomes possessed of information relating to intelligence
5 sources and methods, knowingly communicates such information
6 to a person not authorized to receive it shall be fined not more
7 than \$5,000 or imprisoned not more than five years, or both;

8 (2) For the purposes of this subsection, the term
9 "information relating to intelligence sources and methods"
10 means information concerning

11 (a) methods of collecting foreign intelligence;

12 (b) all sources of foreign intelligence, whether
13 human, technical, or other; and

14 (c) methods and techniques of analysis and
15 evaluation of foreign intelligence

16 and which for reasons of national security, or in the interest
17 of the foreign relations of the United States, has been specifically
18 designated for limited or restricted dissemination or distribution,
19 pursuant to authority granted by law, Executive order, or
20 Directive of the National Security Council, by a department or
21 agency of the United States Government which is expressly
22 authorized by law or by the President to engage in intelligence
23 activities for the United States;

1 (3) A person not authorized to receive information relating
2 to intelligence sources and methods is not subject to prosecution as an
3 accomplice within the meaning of section 2 and 3 of Title 18, United
4 States Code, or to prosecution for conspiracy to commit an offense
5 under this subsection, unless he became possessed of the information
6 relating to intelligence sources and methods in the course of his relation-
7 ship with the United States Government;

8 (4) No prosecution shall be instituted under this subsection
9 unless, prior to the return of the indictment or the filing of the
10 information, the Attorney General and the Director of Central Intelligence
11 jointly certify to the court that the information was lawfully designated
12 for limited or restricted dissemination or distribution within the meaning
13 or paragraph (2) of this subsection at the time of the offense;

14 (5) It is an affirmative defense to a prosecution under this
15 subsection that the information was communicated only to a regularly
16 constituted subcommittee, committee, or joint committee of Congress,
17 pursuant to lawful demands;

18 (6) Whenever in the judgment of the Director of Central Intelligence
19 any person has engaged, or is about to engage, in any acts or practices
20 which constitute, or will constitute, a violation of this subsection, or
21 any rule or regulation issued thereunder, the Attorney General, on
22 behalf of the United States, may make application to the appropriate court
23 for an order enjoining such acts or practices, or for an order enforcing

1 compliance with the provisions of this subsection, and upon a showing
2 that such person has engaged, or is about to engage, in any such acts
3 or practices, a permanent or temporary injunction, restraining order,
4 or other order may be granted.

5 (7) In any judicial proceeding under this subsection, the
6 court may review, in camera, information relating to intelligence
7 sources and methods designated for limited or restricted dissemination
8 or distribution for the purpose of determining if such designation was
9 lawful and the court shall not invalidate the designation unless it
10 determines that the designation was arbitrary and capricious.